

**BOARD OF APPEALS CASE NO. 5040**

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**BEFORE THE**

**APPLICANT: Jarrettsville Federal  
Savings & Loan**

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**ZONING HEARING EXAMINER**

**REQUEST: Variance to allow additions  
within the required front and rear yard  
setbacks; 3706 Norrisville Road,  
Jarrettsville**

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**OF HARFORD COUNTY**

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**Hearing Advertised**

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**Aegis: 4/19/00 & 4/26/00**

**HEARING DATE: June 7, 2000**

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**Record: 4/21/00 & 4/28/00**

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### **ZONING HEARING EXAMINER'S DECISION**

The Applicant, Jarrettsville Federal Savings & Loan Association, hereafter “Jarrettsville Federal”, is requesting two variances to Section 267-38B, Table IX of the Harford County Code:

1. To construct an addition to the existing bank building which would reduce the rear yard setback from the required forty (40) feet to thirty-five (35) feet; and
2. To construct an addition to the existing bank building which would reduce the front yard setback from the required twenty-five (25) feet to sixteen (16) feet, in a VB/Village Business District.

The subject property is located at 3706 Norrisville Road (MD Route 23), Jarrettsville, approximately 265 feet west of the intersection of MD Route 165, in the Fourth Election District. The parcel is more specifically identified as Parcels 84 and 85, in Grid 1A, on Tax Map 32. The parcel is approximately 1.26 acres in size, all of which is zoned VB.

First to testify was Mr. Oliver P. Boyer, Jr., 6 Carolina Avenue, Bel Air. Mr. Boyer is the Executive Vice-President and Manager of the Applicant bank, Jarrettsville Federal Savings & Loan Association. Mr. Boyer has been employed by Jarrettsville Federal since 1966 and was authorized to testify on behalf of the bank. Mr. Boyer noted that the bank has been in business since 1869 and is located slightly to the west of the intersection of Norrisville Road and MD Route 165 in the village of Jarrettsville.

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According to Mr. Boyer, the subject property was acquired in two pieces, with the first quarter (1/4) acre being purchased in 1950. In 1960, the bank acquired the larger adjacent parcel. About that time, the bank built an addition to the original structure which was actually constructed across the property line which divided the two parcels. It was Mr. Boyer's testimony that the bank had applied for a variance approximately twenty (20) years ago, and approval of that variance allowed the bank to put in a drive-thru window on the back of the building and to add an enclosed entrance in the front. At the present time, the bank is proposing to extend the front entranceway to accommodate people with disabilities and the elderly who find it difficult to maneuver between the exterior and interior doors when entering the bank. In addition, the bank is proposing to enlarge the drive-thru window area with two new drive-thru lanes covered by a 32 foot by 24 foot canopy. Mr. Boyer indicated that population growth in the area has led to an increase in business such that cars using the current drive-thru form a line which can extend into the parking lot, which leads to a back up of cars out of the lot onto Route 23.

Mr. Boyer testified that the subject property is unique because of its irregular shape and the fact that it actually consists of two lots, the first having been acquired by the bank before the enactment of any zoning laws. As a result, the original bank building was actually constructed within the rear setback requirement instituted sometime after the bank was built. Mr. Boyer indicated that if the variance is granted with regard to the proposed rear setback, the building will actually be further from the rear lot line than it is currently. Denial of the variance, according to Mr. Boyer, will cause undue hardship to the establishment in that the bank would be forced to continue with only one (1) drive-thru lane, which does not accommodate the number of customers and will create back-ups not only into the bank parking lot, but onto the roadway as well. Denial of the variance for the front entranceway would make it impossible for the bank to get a building permit for any construction because the permit is dependent upon the bank complying with the Americans with Disabilities Act (ADA). The proposed addition to the front entranceway is required by the ADA and is necessary to accommodate customers with disabilities. Mr. Boyer further testified that he did not believe that the proposed additions would have any detrimental or negative impact to the adjoining property owners.

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In fact, Mr. Boyer noted that he believes that approval of the proposed variances would benefit the bank's neighbors in that it would reduce problems with traffic and parking on the site. Mr. Boyer indicated that there are trees which screen the property from neighboring residents and that the trees would not be removed as a result of the construction. Mr. Boyer also noted that he had read the Staff Report submitted by the Department of Planning and Zoning, which recommended approval of the variances, and that the bank would comply with all conditions recommended by the Hearing Examiner if the variances were granted.

Next to testify was Mr. Richard Umbarger, a professional civil engineer employed with George Stephens & Associates, an engineering firm located at 203 East Broadway, Bel Air. Mr. Umbarger was qualified and testified as an expert in civil engineering and site planning. Mr. Umbarger was involved in preparation of the Applicant's site plan, which was marked and admitted as Applicant's Exhibit No. 3. It was Mr. Umbarger's testimony that the existing facility is currently located only fifteen (15) feet from the rear lot line. If the rear setback variance is granted, the Applicant will demolish the existing drive-thru canopy and replace it with the proposed canopy, which will be located approximately 35 feet from the rear property line, increasing the rear setback by about twenty (20) feet. According to Mr. Umbarger, in order to meet the present zoning requirements for a drive-thru window, there must be space for five (5) vehicles in each lane. It is important, according to Mr. Umbarger, that vehicles don't stack up so far that they interfere with other parking and traffic along the street.. Nineteen (19) parking spaces are required for the Applicant's building, while the Applicant's proposal will allow for twenty-three (23). There are no changes contemplated for the entrance and exit onto Route 23. With regard to the proposal for the front entryway, Mr. Umbarger testified that the ADA requires that when improvements are made to an existing facility, the access requirements under the Act for handicapped parking and access ramps must be met. In order for the Jarrettsville Federal building to comply with the ADA, the entrance must be extended by nine (9) feet, with an overhang, as proposed by the Applicant.

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Mr. Umbarger also testified that the subject property is unique, in part because the existing building envelope is very small. The existing building is actually non-conforming to the Code because it was constructed prior to the existence of the zoning regulations. In addition, Mr. Umbarger noted that the topography of the lot is unique in that there is a sharp drop off in the southeast corner which necessitated the construction of a retaining wall. The topography to the front of the lot slopes down from the building, which limits the ability to extend suitable handicapped ramps, which must have no more than a two to four percent incline in order to meet code requirements.

Finally, Mr. Umbarger testified that denial of the requested variances would cause great difficulty for the Applicant. If the Applicant is unable to build the expanded drive-thru windows, there will be an increase in traffic congestion in the parking lot and out onto the roadway. Mr. Umbarger indicated that there would be no negative impact on neighboring properties, as there are no views which would be obstructed by the new construction and very little visual impact. According to Mr. Umbarger, the variances are needed to meet space requirements and to enhance safety for the general public in terms of traffic and handicapped accessibility.

It should be noted that the Staff Report of the Department of Planning and Zoning, which was marked and admitted as Applicant's Exhibit No. 2, recommended that the variances be approved for those reasons outlined by the Applicant's witnesses who testified at hearing.

No witnesses testified in opposition.

### **CONCLUSION:**

The Applicant, Jarrettsville Federal Savings & Loan Association, is requesting two variances to Section 267-38B, Table IX, of the Harford County Code to reduce the required forty (40) foot rear yard setback to thirty-five (35) feet (the existing setback is currently only 15 feet) and to reduce the required twenty-five (25) foot front yard setback to sixteen (16) feet (the existing front yard setback is currently only 22 feet, a variance of three feet having been previously approved by the Hearing Examiner in 1978).

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The subject property is located in a VB/Village Business District. The Applicant is proposing construction of three new drive-thru services lanes under a 32 foot by 24 foot canopy to replace the existing one (1) drive-thru lane at the rear of the existing building, as well as construction of an enlarged front entranceway (approximately six feet longer than the current entryway) to improve access for customers who require the assistance of wheelchairs or other mechanical aids for walking.

The uncontradicted evidence, including the testimony of the Applicant's witnesses and the exhibits which include the Staff Report from the Department of Planning and Zoning, demonstrate that the subject property is unique because of its irregular shape, its sloping topography at one corner and at the front, the small size of the building envelope, and the fact that the original building is already non-conforming with regard to the required setbacks because it was constructed prior to the enactment of the zoning regulations. The evidence was also overwhelming to show that substantial hardship and difficulty would result if these variances were not approved in that the Applicant would be unable to meet the requirements of the ADA and thus would be prohibited from making any needed capital improvements to support its customers and the demand for service in the area. In addition, denial of the rear yard setback variance would result in continuing traffic problems, both in the Applicant's parking lot and out onto the street, potentially creating a serious traffic safety issue. There was no evidence to suggest that approval of the variances would cause substantial detriment to the adjoining properties or to the public interest, nor would it materially impair the purpose of the Code. To the contrary, the evidence demonstrates that the intent and purpose of the Code would be upheld.

Therefore, based upon the evidence set forth above, it is the finding of the Hearing Examiner that the subject property is unique, that denial of the requested variances would cause the Applicant unreasonable hardship and, further, that approval of the variances will not be substantially detrimental to adjacent properties or materially impair the purpose of the Code.

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Accordingly, it is the recommendation of the Hearing Examiner that the requested variances to reduce the front yard setback to 16 feet and the rear yard setback to 35 feet be approved, with the condition that the Applicant obtain all necessary permits and inspections for the proposed additions.

**Date    AUGUST 8, 2000**

**Valerie H. Twanmoh  
Zoning Hearing Examiner**